

Amendment No. 1 to SB2359

**Stanley
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2359

House Bill No. 2378*

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. There is hereby established an animal control program in the City of Bartlett.

SECTION 2. The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Animal" means any live, vertebrate creature, domestic or wild;

(2) "Animal shelter" means any facility operated by a humane society or the city, or the authorized agents thereof, for the purpose of impounding or caring for animals held under the authority of this act or state law;

(3) "Animal, wild" means any raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or other similar warm-blooded animal, or poisonous snake or lizard, normally found in the wild;

(4) "Auction" means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this act. This term does not apply to isolated sales of individual animals by owners;

(5) "Circus" means a commercial variety show featuring animal acts for public entertainment;

(6) "Commercial animal establishment" means any pet shop, grooming shop, auction, zoological park, circus, performing animal exhibition or kennel;

(7) "Dangerous dog" means any dog which attacks or bites a person or a domestic animal on any public or private property without provocation. Owning or

harboring a dog primarily or in part for the purpose of dog fighting or training a dog for fighting is illegal;

(8) "Grooming shop" means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed;

(9) "Humane officer" means any person designated by the state, the city or a humane society as a law enforcement officer in accordance with state law;

(10) "Kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or a place where four (4) or more cats or dogs, or any combination of four (4) such animals, are kept, whether by the owners of the animals or by other persons, with or without compensation;

(11) "Livestock" means all equine as well as animals that are being raised primarily for use as food or fiber for human utilization or consumption, including but not limited to, cattle, sheep, swine, goats and poultry;

(12) "Non-livestock animal" means a pet normally maintained in or near the household or households of its owner or owners, other domesticated animals, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as "livestock";

(13) "Owner" means any person owning, keeping or harboring one (1) or more non-livestock animals. A non-livestock animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more. If the owner of an animal is a minor, the parent or guardian of such minor shall be considered the owner;

(14) "Nuisance animal" means any non-livestock animal which:

(A) Molests passersby or passing vehicles;

(B) Attacks other animals;

(C) Trespasses on school grounds or private property;

(D) Is repeatedly at large;

(E) Damages private or public property;

(F) Barks, whines, howls or makes any noise natural to its species in an excessive, continuous or untimely fashion so as to disturb the peace; or

(G) Creates excessive offensive odor;

(15) "Performing animal exhibition" means any spectacle, display, act or event, other than circuses, in which performing non-livestock animals are used;

(16) "Pet" means any non-livestock animal kept for pleasure rather than utility;

(17) "Pet shop" means any person, partnership or corporation, whether operated separately or in connection with any other business enterprise except for a licensed kennel, that buys, sells or boards any species of animal;

(18) "Physical restraint" means muzzled and on a heavy chain leash not to exceed three feet and controlled by an adult physically capable of controlling such dog. The muzzle must not cause injury to the dog but must prevent it from biting any person or animal;

(19) "Potentially dangerous dog" means any dog which chases or approaches a person or an animal on any public or private property in a menacing fashion or apparent attitude of attack;

(20) "Restraint" means any leash, lead or other physical restraint;

(21) "Riding school or stable" means any place which has available for hire, boarding or riding instruction any horse, pony, donkey, mule or burro;

(22) "Secure enclosure" means a secure enclosure that is a minimum of five (5) feet wide, ten (10) feet long and five (5) feet in height above grade, and with a horizontal top covering such area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. To prevent escape of the non-livestock animal, the floor shall be at least three (3) inches of poured concrete with the bottom edge of such fencing embedded in the concrete or extending at least one (1) foot below grade. The gate must be of the same material as the fencing, fit closely and be securely locked. The enclosure must contain and provide protection from the elements for the animal;

(23) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member or organ;

(24) "Veterinary hospital or clinic" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases or injuries of animals;

(25) "Vicious animal" means any non-livestock animal that constitutes a threat to human beings or animals; and

(26) "Zoological park" means any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of nondomestic non-livestock animals operated by any person, partnership or corporation, or any governmental agency.

SECTION 3.

(a) Any person owning, keeping, harboring or having custody of any dog over three (3) months of age or cat over six (6) months of age within the city, but not operating a kennel or animal shelter, must obtain a license as provided in this section.

(b) A license shall be issued only after application in writing which shall include the name, address and telephone number of the applicant, a description of the dog or cat, certification as to the dog's or cat's breeding capability, proof of vaccination against rabies issued by a licensed veterinarian, and date of revaccination, and only after payment of a fee as specified in this section.

(c) Application for a license shall be made within thirty (30) days after a dog attains the age of two (2) months or a cat attains the age of five (5) months, or within thirty (30) days after the first day a dog over three (3) months of age or a cat over six (6) months of age is owned, kept or harbored within the city.

(d) Unless revoked, a license shall be valid for one (1) year from the date of issue.

(e) License fees, which shall not be refundable, shall be established by the board of mayor and aldermen.

(f) Upon proper application and payment of the applicable fee, the city shall issue a suitable license tag bearing an identifying number which shall be recorded in a public record.

(g) License tags shall be affixed to the collar or harness and worn by the dog or cat when off the premises of the owner.

(h) Duplicate license tags may be obtained upon payment of a fee as established by the board of mayor and aldermen.

(i) No person shall place a license tag on any dog or cat other than the dog or cat for which the tag was issued.

(j) Guide dogs in compliance with Tennessee Code Annotated, Section 62-7-112 and police dogs of the police department shall be exempt from complying with this section.

SECTION 4.

(a) No dog shall be allowed to run at large within the city. Each dog not confined behind a fence shall be placed on a leash and controlled by a person physically capable of controlling such dog.

(b) No owner shall fail to exercise proper care and control of such owner's non-livestock animals to prevent them becoming a nuisance.

(c) Every female dog in heat shall be confined in a building or enclosure in such a manner that such female dog cannot come in contact with a male dog except for planned breeding.

(d) No owner shall keep, harbor or maintain on or off such owner's premises any dangerous or potentially dangerous dog, unless such dog is within the owner's house, in a secure enclosure or physical restraint, or unless such dog is under the control of a law enforcement officer on official duties. Any dog found in violation of this section shall be immediately impounded. A summons shall be issued to the owner of the dog.

(e) No person owning, keeping, harboring or possessing any cats, rabbits, horses, goats, hogs, sheep, cattle or other animals, chickens, ducks, geese or any other

birds or poultry, shall permit or allow such animals to go at large any time within the limits of the city, to the damage or annoyance of any resident of the city.

SECTION 5.

(a) Unrestrained dogs and nuisance non-livestock animals shall be taken by the police, animal control officers, humane officers, or deputy animal control officers, and impounded in a humane manner.

(b) Unclaimed impounded dogs or nuisance non-livestock animals shall be kept for not less than three (3) working days, after which if not reclaimed, adopted or released for adoption, the impounded dogs or nuisance non-livestock animals may be humanely euthanized. The city shall not be liable for any disposition of such animal in accordance with this act. If not reclaimed, adopted or released for adoption after a reasonable length of time the dogs or nuisance non-livestock animals shall be humanely euthanized.

(c) If by a license tag or by other means the owner of an impounded non-livestock animal can be identified, the city, immediately upon impoundment, or as soon as practical thereafter, shall attempt to notify the owner by telephone or certified mail.

(d) An owner claiming an impoundment non-livestock animal shall pay reasonable fees and expenses as the city may, from time to time, adopt or approve by appropriate administrative ordinance or resolution. All costs, including medical care, for care of an impounded non-livestock animal are the responsibility of the owner of the non-livestock animal.

(e) Minimal emergency medical care may be given to any sick or injured animal found at large within the city. Such animal may be taken to any veterinarian for minimal emergency care or euthanasia, in which case the veterinarian shall notify an animal control officer immediately. If the owner of such animal can be identified, the animal control officer shall attempt to notify the owner immediately or as soon as practical thereafter. In any case, such owner shall be liable for any expense incurred with respect to such animal. If the owner of such animal cannot be identified within twenty-four (24) hours, the animal shall become the property of the city. If, during the initial twenty-four

hour period, it is recommended in writing by a veterinarian that the animal is in pain and has no reasonable hope of recovery, the animal may be humanely euthanized as authorized in writing by a designated agent of the city. The reasonable and necessary expense of emergency medical care or euthanasia, with respect to such animal, as expressly authorized by the city, shall be paid by the city. The city shall not be liable for any expense with respect to such animal at any time unless expressly authorized by the city. If after minimal emergency care such animal can be safely impounded, the animal control officer may impound such animal, subject to disposition in accordance with this act.

SECTION 6.

(a) Every owner shall provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight or bullfight, or any other combat between animals or between animals and humans.

(c) No owner of an animal shall abandon such animal.

(d) No person shall sell chickens or ducklings younger than eight (8) weeks of age in quantities of less than twenty-five (25).

(e) No person shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter any place of amusement; or offer any vertebrate as an incentive to enter into any business agreement wherein the offer was for the purpose of attracting trade.

(f) No person shall expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance is likely to be eaten by an animal, provided that it shall not be unlawful for a person to expose on such person's own property common rat poison mixed only with vegetable substances.

(g) The animal control officer, a deputy animal control officer or any humane officer or police officer may initiate before a city judge a search warrant for any premises upon a showing of probable cause that a violation of any provision of this section is occurring or has occurred within a reasonable time; and take charge of and impound the non-livestock animals or fowl involved in such violations. The disposition of any such animal shall be determined by a city judge.

SECTION 7.

No person shall keep or permit to be kept on such person's premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. The provisions of this section shall not apply to zoological parks, performing wild animal exhibitions or circuses.

SECTION 8.

(a) No performing animal exhibition or circus, or agents or employees thereof, or individual owner of a performing animal, shall induce or encourage any animal to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or will be likely to cause physical injury or suffering.

(b) All equipment used on a performing animal shall fit properly and be in good working condition.

SECTION 9. The owner of any non-livestock animal shall remove any excreta deposited by such owner's animal on public walks, recreation areas, public streets, or private property except where attendants are employed for the purpose of removing the deposits, such as in a horse show arena, at a riding stable or other event or establishment.

SECTION 10. No unclaimed dog or cat shall be released for adoption from an impoundment without being sterilized or without a written agreement from the person adopting the dog or cat guaranteeing that such animal shall be sterilized at the earliest possible time as determined by a licensed veterinarian. The city shall collect at the time of adoption the applicable fees to cover the cost of sterilization and rabies vaccination. In addition, if the animal is a dog that is to be domiciled within the city, the appropriate dog license fee will be collected.

SECTION 11.

(a) The animal control officer and the officer's deputies shall enforce the provisions of this act. It shall be a violation of this act to interfere with any such person in the performance of the person's duties, or to take any animal from that person without designated authority.

(b) The animal control officer shall have the powers and privileges of a police officer of the city solely for the purpose of enforcing the provisions of this act.

SECTION 12. The animal control officer and deputies under the officer's jurisdiction are prohibited from carrying or using firearms in connection with their responsibilities relating to animal control. The animal control officer is authorized to request the assistance of a police officer, and the police officer is authorized to employ the use of firearms in the apprehension of any animal that, in the police officer's opinion, constitutes a threat to human beings or animals.

SECTION 13. The animal control officer or any duly appointed deputy under the officer's jurisdiction is authorized to issue a citation to or seek a subpoena for any individual who, in the officer's opinion, is in violation of the terms and conditions of this act.

SECTION 14.

(a) All dogs three (3) months of age or older or cats six (6) months of age or older shall be immunized against rabies by a licensed veterinarian. The owner must have in such person's possession a current vaccination certificate subject to the inspection of the animal control officer, or designated agent of the city.

(b) If any dog or cat has bitten any person or is suspected of having bitten any person, or is for any reason suspected of being infected with rabies, the animal control officer may cause such dog or cat to be confined or isolated for such time as deemed necessary. The animal may be confined at the animal shelter or a private veterinary hospital. Any charges incurred shall be the responsibility of the owner of the animal.

SECTION 15. The city shall designate an animal control officer and deputy animal control officers whose primary responsibilities include the enforcement and implementation of this act and regulations promulgated thereunder. The animal control officer shall coordinate and

administer the activities involving the animal control program and shall be under the direction and supervision of the city administration.

SECTION 16.

(a) The determination of whether a dog is declared dangerous or potentially dangerous shall be made by the municipal court. No dog shall be declared dangerous or potentially dangerous if the threat, injury, or damage caused by such dog was sustained by a person who was committing a crime, or if the dog was provoked by a person cruelly abusing or tormenting him or her.

(b) Any dog, whether or not previously declared dangerous or potentially dangerous, that attacks a person causing death or serious bodily injury, or bites and breaks the skin of a person, shall be impounded and quarantined the proper length of time for rabies observation and testing, if necessary. A summons shall be issued to the owner of such dog allowing the owner five (5) days from receipt to respond and show cause why the municipal court judge should not impose fines, require additional security measures be taken, or order the dog destroyed pursuant to Tennessee Code Annotated, Section 44-17-120(b). This subsection shall not apply if the municipal court judge determines that the injury caused by such dog was sustained by a person who was committing a crime, or was provoked by a person cruelly abusing or tormenting the dog.

SECTION 17. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Bartlett. Its approval or nonapproval shall be proclaimed by the presiding officer of Bartlett and certified to the secretary of state.

SECTION 18. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 17.